

Minimum Standards for Commercial Aeronautical Activities

An Airport Owner and Management
Reference Document

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Introduction

The Wisconsin Department of Transportation Bureau of Aeronautics (BOA) has historically provided Wisconsin's airport owners with a preparation guide for the development of minimum standards. A rewrite of the primary guidance material by the Federal Aviation Administration (FAA), detailed below, has resulted in this new, updated document for Wisconsin airport owners and managers to use as they develop or update their minimum standards documents.

The FAA's primary minimum standards guidance material is the Advisory Circular AC150/5190-5, Exclusive Rights and Minimum Standards for Commercial Activities (change 1), published June 10, 2002. The current circular, and its predecessor, combined two Advisory Circulars; 5190-1A, Minimum Standards for Commercial Aeronautical Activities and 5190.2A, Exclusive Rights at Airports. You can download a copy of the current AC at the Internet address listed in the reference section of this document, page 30.

We encourage all Wisconsin airport owners, in consideration of FAA guidance material changes, to complete a three-step process.

1. Review AC 150/5190-5, this document and other materials listed in the reference section.
2. Review the airport's current minimum standards document.
3. Draft, approve and implement a revised or new minimum standards document.

Former editions of this guide included an almost ready-to-use minimum standards document. Airport owners could simply fill in the appropriate blanks and have a viable document with minimum effort. Current FAA guidance has changed the type of assistance the BOA will provide airports through this guide. In Section 2-2, paragraph c of Advisory Circular 150/5190-5A the FAA states, "When developing minimum standards, the most critical consideration is the particular nature of the activity and operating environment of the airport. Minimum standards should be tailored to the airport which they will apply." Later in that same section, "The FAA will not endorse fill-in-the-blank minimum standards ..."

This reference document has been created to:

- Answer general questions regarding minimum standards.
- Provide general, non-specific items that Wisconsin airport owners should consider for inclusion in their minimum standards document.
- Provide additional references for further study of this important airport management subject.

Answers to specific questions, advice or counsel regarding minimum standards, leases or exclusive rights should be sought from the BOA prior to adopting any new or revised minimum standards document.

Why develop Minimum Standards

The use of the airport, a public facility, by a business or an individual for their personal use is a privilege. The privilege of using the airport brings with it certain responsibilities. The airport owner has responsibilities as well. They must protect the public, the public's investment in the facility and the airport's tenants. The owner must assure that any private use of the facility is conducted in an acceptable manner and is not detrimental to the transportation function of the airport. These responsibilities can be accomplished through the development and enforcement of minimum standards.

The FAA encourages airport owners to develop minimum standards through several of their publications:

- "Advice provided with respect to minimum standards is optional but highly recommended." (AC 150/5190-5, paragraph 1)
- "A prudent airport management should establish minimum standards to be met by all who would engage in a commercial aeronautical enterprise at the airport." (FAA Order 5190.6A, paragraph 3-12)
- "The airport and all facilities ... shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards ..."
(Airport Sponsor Assurances #19a)
- "As an aid to uniformity in rates and charges applicable to aeronautical activities on the airport, management should establish minimum standards to be met as a condition for the right to conduct an aeronautical activity on the airport." (FAA Order 5190.6A, paragraph 4-14d (2)(e))
- "Airport owners should be encouraged to develop and publish minimum standards in advance of negotiations with any prospective tenant or operator. This will establish a basis for practical negotiations."
(FAA Order 5190.6A, paragraph 3-17a)

Well-written minimum standards give the airport owner the ability to develop and maintain a high level of aeronautical service to the flying public and to promote the orderly development of businesses at the airport.

"The sponsor of a Federally obligated airport agrees to make the opportunity to engage in commercial aeronautical activities available to any person, firm, or corporation that meets reasonable minimum standards established by the airport sponsor. In exchange for this opportunity, a business operator agrees to comply with minimum standards developed by the airport sponsor."
(AC 150/5190-5, paragraph 2-1)

A federally obligated airport is an airport where the airport owner has accepted federal funds to buy land (no life limit) or funds to develop or improve the airport

(20 year life limit). Using these criteria nearly every publicly owned airport in Wisconsin is an obligated airport. Accepting federal funds, becoming an obligated airport, creates a requirement for the airport owner regarding businesses using their facility.

The airport owner of a federally obligated airport, as part of their responsibilities, must allow anyone the opportunity to conduct commercial aeronautical activities on their airport. If the airport owner has developed minimum standards the business has a responsibility to the airport. The operator must adhere to those minimum standards.

Airport owners may deny a business's request to operate on the airport or limit or restrict the operator's manner of operation. "This type of restriction should be based on safety concerns and may affect the runways or taxiways on which certain aircraft types are allowed to operate ..."
(AC150/5190-5, paragraph 2-2b(1))

"The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport."
(Airport Sponsor Assurances, #22h)

"The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public."
(Airport Sponsor Assurances, #22i)

We can conclude then that:

- If you are an obligated airport you must allow any business that desires the opportunity to conduct operations on your airport.
- Minimum standards set the threshold entry requirements for businesses conducting operations on your airport.
- You can deny, restrict or limit specific aeronautical use of the facility based on safety or efficiency.

Minimum standards can be a very effective tool for dealing with property related issues, tenant concerns and problems and avoiding the appearance of providing exclusive rights. Like many other management tools this document is only valuable if time and energy are invested in its preparation.

Airport owners should develop minimum standards to more effectively accomplish a number of their responsibilities, because the FAA encourages them to do so, and as a proactive measure in dealing with airport tenants. The answer to why should an airport owner develop minimum standards can be better answered by looking at what would be gained by the effort.

What is to be gained through Minimum Standards

Minimum standards that are developed using this guide and other resources, that are reviewed by the BOA prior to implementation and has planned reviews and updates will be a quality document and will prove to be an invaluable tool to the airport owner. There is much to be gained from such a document.

The development of Minimum Standards

- Promotes safety in all airport activities
- Encourages a high quality of service for airport users
- Protects the airport, the public and the airport's operators

Minimum Standards protect the Airport by:

- Ensuring that the airport is in compliance with Federal Grant Assurances
- Ensuring that the airport is in compliance with AC 150/5190-5
- Establishing threshold entry requirements for services and their quality
- Promoting the orderly and efficient development of airport land
- Ensuring that tenants compensate the airport owner a fair market rent for the use and privilege of operating on the airport
- Development of airport security policies and procedures

Minimum Standards protect the Public by:

- Requiring that each provider of any aeronautical service be authorized to provide that service and that they be qualified, certificated and insured to do so

Minimum standards protect the airport's operators by:

- Preventing unfair competition
- Providing for equal and fair treatment
- Preventing unjust discriminatory treatment to both prospective and existing tenants

Minimum standards should provide threshold entry requirements for any commercial operator proposing to enter into an agreement (lease) with the airport owner. Minimum standards can be designed to promote higher levels of service from airport businesses. Raising the threshold requirements over time and competition both serve as catalysts to improved or a higher level of service being provided. Operators should be encouraged to exceed the minimum standards whenever possible.

Minimum standards are intended to assist the airport owner meet the FAA's obligation to "...make the airport as self-sustaining as possible under the circumstances existing at the particular airport."
(Airport Sponsor Assurances, #24)

A fair market rent for use of the airport is a responsibility of both the airport owner and the aeronautical service provider.

What to do when developing Minimum Standards

Minimum standards should be airport specific and address the needs of the airport and the public. Minimum standards should be reasonable, relevant to the proposed activity, and have a goal of protecting the level and quality of services offered to the public.

The airport owner should develop standards for each type and class of service. The FAA stresses that, where minimum standards are adopted, they should be applied objectively to all on-airport commercial activities. Imposing unreasonable or onerous minimum standards on airport businesses may violate the FAA's policy on exclusive rights.

The airport owner should concurrently develop a plan for review and revision of the document so as to maintain meaningful minimum standards that are reasonable, appropriate and enforceable.

Specific recommendations

- Airport owners should create standards that are functional, implemental and logical to their commercial aeronautical operators.
- Develop standards that are applicable to the type and class of activity being provided today and may be in the future.
- Ensure that the requirements are specific.
- It's important to involve all commercial aeronautical service providers at some point during the development process.
- Storage and transport of aviation fuel, though not procured for resale, should be subject to reasonable restrictions and minimum standards for equipment, location and handling practices.
(FAA Order 5190.6A, paragraph 3-9e (4)(b))
- Have your minimum standards reviewed by the Wisconsin DOT Bureau of Aeronautics. It is much easier to make changes before adoption or inclusion in a multi-year lease.

While developing new minimum standards or updating an existing document the airport owner should consider and plan on the best procedure for implementing the standards. Questions that the owner should address include:

- Should they become part of each lease?
- Are they provided with Requests For Proposals (RFPs)?
- Should each tenant sign that he/she has received and accepted the airport's minimum standards?
- How will the standards be enforced with existing tenants?
- What will be the process for updating the (new) document?

What not to do when developing Minimum Standards

- Don't "borrow" and use another airport's minimum standards. Their situation, regardless of the similarities, is not the same as yours.

The FAA discourages this method through the AC stressing that while airports should develop Minimum Standards they should not use a fill-in-the-blanks type document. "The FAA will not endorse "fill-in-the-blank" minimum standards because of the high probability that many airport sponsors would adopt the document without modifying it to the needs of the particular airport." (AC 150/5190-5, paragraph 2-2C)

- Avoid having excessively high threshold requirements or lowering the standards for the benefit of a new or potential tenant.

Minimum standards are to solve problems not create them. Excessively high standards or lowering them once established will only cause situations that are cumbersome at best and may result in litigation.

- Don't fail to apply the adopted minimum standards objectively.

The airport owner that does otherwise may find that they are in violation of the exclusive rights prohibition or of committing unjust economic discrimination.

- Do not combine the minimum standards and airport rules and regulations documents.

Minimum standards set the threshold requirement for commercial aeronautical service providers while rules and regulations apply to everyone that uses the airport and establishes the acceptable conduct while they are on the facility. Both documents protect the public and the airport owner. While frequently presented together they must be drafted, presented and used as two separate documents.

- Don't require a Specialized Aeronautical Service Operator (SASO) to meet the minimum standards criteria of a full-service FBO.

It is unreasonable and inappropriate to require all businesses on the airport to comply with all provisions of the minimum standards. This action may cause problems for the airport owner later on.

- Don't change the minimum standards without justification to current business operators.

The constant juggling of the standards will create the appearance of some operators receiving preferential treatment.

After the Minimum Standards are written

- Introduce the airport tenants to the minimum standards document.

Have an introduction plan developed before the new standards are approved. Mail or deliver a copy of the standards to each commercial operator on the airport immediately after the document is approved. Have copies available for other tenants. Conduct a meeting, or several if required, to discuss the document, what it means to the tenants, the public, the airport and how the minimum standards will be enforced.

- Provide a copy to the Bureau of Aeronautics.

Current copies of your various airport documents when on file with us enhances the service we can provide you and other Wisconsin airports. Please strive to keep us up-to-date with your airport documents.

- Have a planned and scheduled review process as part of the minimum standards.

This is particularly important if the minimum standards are new and dramatically revised. The FAA encourages airport owners to review leases and minimum standards documents often:

“We encourage you to review your lease agreements and minimum standards on a three-year cycle, along with the Airport Layout Plan and Airport Property Map, to ensure they continue to comply with grant assurances.” (Guidance to Prevent Exclusive Rights and Establish Commercial Business Standards at Your Airport)

When revisions are made to the document be sure that all airport tenants are aware of the revisions and the justification for those changes.

- Adhere to the provisions of the minimum standards.

Set the example, if you don't follow the minimum standards how can you expect the airport's tenants to?

How Minimum Standards and Leases Relate

Leases and minimum standards are inseparable. One cannot be effective without the other. Consider the lease as the second in a two-step process. Minimum standards, the first step, set forth the basic entry level requirements for conducting commercial operations at your airport. Leases will provide more detail, the specifics if you will, of what the individual operator will provide.

An example may best make our point. Let's look at an airport that has an existing commercial operator with a long history at the airport and a new FBO just coming onto the field. Remember that your lease with either commercial operator cannot require less than the current minimum standards. You establish a lease with the new operator that meets the minimum standards and nothing more. Later, you renew the existing operator's lease and there are a number of areas where this operator exceeds the minimums – ramp area, hangar area, hours of operation and number of aircraft they will provide for rent.

Both operators, through their respective lease, meet or exceed the minimum standards. The benefits of minimum standards, detailed on page 5, have been realized.

Airport leases for commercial operators should contain the requirement to comply with the airport's minimum standards, and as a part of the lease the standards become mandatory and enforceable. "The minimum standards ... by virtue of the business operator's agreement (lease), become mandatory." (AC 150/5190-5, paragraph 2-1)

We recommend that any study of leases begin with the BOA Operations Bulletin on leases published in 2001. Leases, by their very nature, contain potential pitfalls for the airport owner but in this context they have two – lease term and fee structure.

Lease Term

It has been our experience that a lease term in excess of 30 years will create more problems than it will solve. The lease term should be of a length consistent with the requirements of potential lenders and long enough to permit the amortization of loans made for improvements. Long-term leases are contrary to Sponsor Assurance #5 in that they encumber a portion of the airport. Options to renew are a consideration that allows flexibility for both parties.

Fee Structure

Rental fees that are locked into long-term leases are doubly bad for airport owners. Any lease with a term in excess of 5 years should provide for a review and adjustment of rents based on the Consumer Price Index or other prior agreed upon indices.

About Exclusive Rights

Airports that have accepted Federal assistance must comply with the statutory prohibition on exclusive rights. The airport owner is obligated to adhere to this prohibition for as long as the property is used as an airport. An exclusive rights violation occurs when an airport owner prohibits others, either intentionally or unintentionally, from participating in an on-airport activity. It is the impact of the activity not the airport owner's intent that constitutes an exclusive rights violation.

There is an abundant amount of FAA guidance material regarding exclusive rights:

The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed but in any event not to exceed twenty (20) years. There shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. (Airport Sponsor Assurances, paragraph B1)

"It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public."
(Airport Sponsor Assurances, #23)

"It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, ..." (Airport Sponsor Assurances, #23)

"...and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code." (Airport Sponsor Assurances, #23)

The fact that an airport has only one FBO is not a violation of the exclusive rights policy. If the opportunity for another commercial operator to conduct business on the airport exists then no violation has occurred.

Airports with a single FBO can still get into potential exclusive rights violations. If the airport were to allow an FBO to lease all available land even when that land is not immediately needed or grant options or preferences on future sites those would both be exclusive rights violations.

Placing any unreasonable restriction on the owner or operator of an aircraft regarding the servicing of their aircraft may violate the exclusive rights prohibition. Airport owners must provide an area for self-servicing activities. Reasonable rules should be adopted to confine such self-servicing to appropriate areas of the airport. Commercial self-service fueling is an aeronautical service and falls under the requirements of minimum standards.

Creating Your Minimum Standards

Once the decision has been made to develop a minimum standards document for your airport or to update the current document the real work begins. Every airport is different and therefore requires its own, personalized minimum standards.

Remember that the FAA requires individualized minimum standards. In Section 2-2, paragraph c of Advisory Circular 150/5190-5A the FAA states, “When developing minimum standards, the most critical consideration is the particular nature of the activity and operating environment of the airport. Minimum standards should be tailored to the airport which they will apply.” Later in that same section, “The FAA will not endorse fill-in-the-blank minimum standards ...”

There are, however, areas of commonality. For example, the format or the structure of the minimum standards document can be the same or at the very least similar from one airport to the next. This document will provide you much guidance including suggested format and potential items to consider for inclusion. There are many other resources that you can use in the development process including consultants.

Possible format

The following format and possible sections include items that you might include in your minimum standards document. You may want to follow this format or design a unique one. View the items we’ve included in each section as a starting point. You will want to add details, possibly add additional items, and may not use others as you create your minimum standards document.

Introduction

Begin by identifying the airport owner and establish the fact that the airport is an obligated airport. State the reason(s) for the establishment of the minimum standards and the goals that will be reached through their use. You may want to include review and revision plans here or you can provide that in a separate section. Provide data on the adoption of the minimum standards including dates and required signatures.

Definitions

We have included a comprehensive glossary for your use. You may find that some of the words and their definitions do not need to be included in your minimum standards. Conversely, you may want to add words that need clarification or emphasis at your airport.

Minimum Standards

This is where you will actually quantify your minimums. What are the requirements to operate a commercial aeronautical activity at your airport? You might want to divide the standards into these or similar categories:

- Business Operations
- Fixed Base Operators
- Specialized Aviation Service Operations
- Flying Clubs
- Self-Fueling
- Airport Security

Through the Fence Operations

“As a general principal, FAA will recommend that airport owners refrain from entering into any agreement which grants access to the public landing area by aircraft normally stored and serviced on adjacent property” (FAA Order 5190.6A, paragraph 6-6d)

Enforcement

How will you enforce compliance with the minimum standards? What will be the penalty, if any, for commercial operators that operate outside of the minimum standards? What will the penalty be, if any, for repeat offenders? It is much easier to determine the answers to these questions proactively than during a situation when you must simply react to it.

Review and Updates

Remember that the FAA recommends a review of your minimum standards at least every three years, see page 8. Include a review schedule of your minimum standards and state how tenants, users and the public can have input in the process. Develop a plan detailing how you will incorporate any changes into the existing minimum standards and lease documents.

References

You may want to include references for the reader of your document that is not aware of the requirements the FAA places on the airport owner. Certainly a logical starting point would be the references included in this document on page 30. You may want to delete some from the list while adding others in order to create a comprehensive reference for your document.

Definitions

Aeronautical Activity

Any activity that involves, makes possible, or is required for the operation of aircraft or which contributes to or is required for the safety of such operations.

Agricultural Land

Airport property currently not needed for aeronautical use and is available for agrarian purposes.

Air Charter

A Person that provides on-demand, non-scheduled passenger or cargo transportation service in aircraft having less than 30 passenger seats. The entity must operate under the appropriate Federal Aviation Regulations (FARs)

Aircraft

Any contrivance invented, used or designed for navigation of or flight in the air.

Aircraft Operation

An aircraft's takeoff from or its landing at an airport. A touch-and-go is two operations.

Aircraft Owner

A person or entity holding legal title to an aircraft, or any person having exclusive possession of an aircraft.

Aircraft Parking and Storage Areas

The hangar and apron locations on the Airport designated by the airport owner or airport manager for the parking and storage of aircraft.

Aircraft Rental

The commercial operation of renting or leasing aircraft to the public for compensation.

Aircraft Sales

The sale of new or used aircraft through brokerage, ownership, franchise, distributorship, or licensed dealership.

Airframe and Power Plant Maintenance

The commercial operation of providing airframe and power plant services, which includes any of the following: the repair, maintenance, inspection, constructing, and making of modifications and alterations to aircraft, aircraft engines, propellers and appliances including the removal of engines for major overhaul. This category of service also includes the sale of aircraft parts and accessories.

Airport

Any area of land or water which is used, or intended for use, for the landing and taking-off of aircraft and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

Airport Owner

The local municipal government unit, or in some cases multiple municipalities, or in other cases Persons, that are the legal owners of the airport's real property and improvements.

Airport Layout Plan (ALP)

The FAA approved plans and drawings of an airport depicting the layout of existing and proposed airport facilities.

Airport Manager

The designated individual, appointed by the airport owner, duly authorized to administer and manage all operations of the airport and airport facilities.

Assurance

An assurance is a provision contained in a Federal grant agreement to which the recipient of Federal airport development assistance has voluntarily agreed to comply in consideration of the assistance provided.

Aviation Fuel

Flammable liquids composed of a mixture of selected hydrocarbons manufactured and blended for the purpose of operating an internal combustion, jet, or turbine engine, which meet federal fuel standards.

Avionics Sales and Maintenance

The commercial operation of providing for the repair and maintenance of aircraft radios, instruments and accessories. Such operation may include the sale of new or used aircraft radios, instruments and accessories.

Aviation-Related Activity

Any activity conducted on the airport that provides service or support to aircraft passengers or air cargo. The following are examples of aviation-related activities: ground transportation, restaurants, auto parking and concessions.

Based Aircraft

An aircraft which the owner physically locates at the airport for an undetermined period, and whenever absent from the airport, its owner intends to return the aircraft to the airport for long-term storage.

Commercial Activity

The conduct of any aspect of a business, concession, operation, or agency in order to provide goods or services to any person for compensation or hire. An activity is considered a commercial activity regardless of whether the business is nonprofit, charitable, or tax-exempt.

Commercial Operator (Operator)

Is a person, firm, corporation, or other entity conducting commercial aeronautical services or activities at the airport for compensation or hire. The Operator may be classified as either a Fixed Base Operator (FBO) or a Specialized Aviation Service Operator (SASO).

Commercial Self-Service Fueling

Fueling an aircraft by the pilot using commercial fuel pumps installed for that purpose. The fueling facility may or may not be attended by the owner/operator of such a facility.

Exclusive Right

A power, privilege, or other right excluding or debarring another from enjoying or exercising a like power, privilege, or right. An exclusive right can be conferred either by express agreement, by the imposition of unreasonable standards or requirements, or by any other means.

Federal Obligation

Contractual commitment of the airport owner that arises from the conveyance of land or from a grant agreement.

Fixed Base Operator (FBO)

A full service commercial operator who engages in the primary activity of aircraft refueling and a minimum of one (1) of the following secondary activities: airframe and power plant maintenance, flight training, aircraft rental, air charter operations, avionics maintenance and sales or aircraft storage/hangars rentals.

Flight Training

The commercial operation of instructing pilots in dual and solo flight, in any aircraft, and related ground school instruction as necessary to complete a FAA written pilot's knowledge test and practical flight test for various categories of pilot certificates and ratings.

Flying Club

A non-commercial and nonprofit entity organized for the purpose of providing its members with any number of aircraft for their personal use and enjoyment. Aircraft must be vested in the name of the flying club owners on a pro-rata share, and the club may not derive greater revenue from the use of the aircraft than the cost to operate, maintain, and replace the aircraft.

Fuel Storage Area

Any portion of the airport designated temporarily or permanently by the airport owner as an area in which aircraft fuel or any other type of fuel may be stored or loaded.

Fueling or Fuel Handling

The transportation, sale, delivery, dispensing, or draining of fuel or fuel waste products to or from an aircraft.

General Aviation

All civil aviation operations other than scheduled air services and nonscheduled air transport operations for remuneration or hire.

Grant Assurance

Any agreement made between the airport owner and the FAA for the grant of federal funding or a conveyance of land either of which the airport owner agrees to use for airport purposes.

Hazardous Material

Any substance, waste, or material which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous, and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Wisconsin, political subdivision thereof, and the presence of which requires investigation, removal and/or remediation.

Independent Operator

A commercial operator offering a single aeronautical service but without established place of business on the airport. An airport owner may or may not allow this type of servicing to exist on the airport.

Lease

The written contract between the airport or airport owner and a Person (Lessee) specifying the terms and conditions under which an Person may conduct commercial, aeronautical or agricultural activities on the as defined within the established minimum standards.

Minimum Standards

The qualifications or criteria which may be established by the airport owner as the minimum requirements that shall be met as a condition for the right to conduct a Commercial Activity on the airport.

Person

Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

Preventive Aircraft Maintenance

Maintenance that is not considered a major aircraft alteration or repair and does not involve complex assembly operations as listed in FAR Part 43, Appendix A, Paragraph C.

Roadway

Any street or road whether improved or unimproved, within the boundaries of the airport and designated for use by ground vehicles.

Self-Service

Fueling or maintenance of an aircraft on airport property, performed by the aircraft owner or their employees in accordance with the airport's reasonable standards or requirements.

Specialized Aviation Service Operation (SASO)

An aeronautical business that offers a single or limited service according to established minimum standards. Examples of a SASO include, but are not limited to: flight training, aircraft maintenance, on-demand operation or ambulance, aircraft sales, avionics maintenance and sales, and aircraft storage.

Sublease

The written agreement stating the terms and conditions under which a third party Person leases space from a Lessee for the purpose of providing aeronautical services at the airport.

Through-the-fence Agreement

An agreement between the airport owner and an adjacent property owner permitting access to the public landing area.

Through-the-fence commercial operation

A commercial activity, directly related to the use of the airport, developed or located off airport and requiring a Through-the-fence Agreement to access the airport.

Taxilane

That portion of the airport apron area, or any other area, used for access between taxiways and aircraft parking or storage areas.

Taxiway

A defined path established for the taxiing of aircraft from one part of the airport to another.

UNICOM

A non-government communication facility, which may provide airport information at certain airports.

Vehicle Parking Area

Any portion of the airport designated and made available temporarily or permanently by the airport owner for the parking of vehicles.

Minimum Standards

To whom do the minimum standards apply and what is the relation of the minimum standards to any lease or agreement?

- **Application**
All persons conducting commercial aeronautical activities at (airport name) shall, as a condition of conducting such activities, comply with all the requirements set forth in these minimum standards. The minimum standards are deemed to be a part of each commercial airport operator's lease or agreement with (airport owner).

The mere omission of any particular minimum standards in a lease or agreement shall not constitute a waiver or modification of the standard unless the document expressly states that (airport owner) waives application of that standard.

How will you apply these new minimum standards to operators holding existing leases? Will your current operators meet the new or revised minimum standards?

- **Existing operators**
These minimum standards will not apply to commercial aviation operators who have a current lease or agreement with (airport owner). Minimum standards will be applied to existing operators upon renewal of the existing lease or agreement.

Existing operators who are unable to meet the minimum standards at the time of lease or agreement renewal shall submit a plan outlining specific timelines for complying with the minimum standards. (airport owner) must approve the plan prior to renewal of the lease or agreement.

How will you address those operators that provide multiple services?

- **Multiple services**
When a commercial operator conducts multiple activities pursuant to one lease or agreement with (airport owner), the commercial operator shall comply with the minimum standards established for each separate activity. If the minimum standards for one activity are inconsistent with the minimum standards for another activity, then the minimum standard that is more strict or imposes a higher standard shall apply.

Is it possible that an activity, not specifically addressed in your minimum standards, will be proposed?

- Activities not covered by minimum standards
Activities with no specific minimum standard established in this document will be addressed by the (airport owner) on a case-by-case basis in the commercial operator's lease or agreement.

Could your airport benefit from the opportunity to waive or modify the standards when dealing with other government agencies or non-profit groups?

- Waivers or modifications
The (airport owner) may waive or modify any portion of these minimum standards for the benefit of a governmental agency performing non-profit public services, fire protection or emergency response operations.

The (airport owner) may waive or modify any portion of these minimum standards for any person when it is determined that such waiver is in the best interest of the public and will not result in unjust discrimination against other commercial operators at the airport.

Business Operations

Do you need to establish a more customer-orientated paradigm at your airport? This section would set the tone for the conduct of business on the airport. These points are subjective and may be somewhat difficult to enforce.

- Customer Service Emphasis
(airport owner) works diligently to provide high quality services addressing the needs of the public. (airport owner) requires its airport's commercial operators, businesses, and tenants to do likewise. The goal of this emphasis is straight-forward: offer the tenants and users of the (airport name) high quality customer service by meeting and exceeding customer needs through consistent, responsive, and professional service.
- Management Control and Supervision
Each commercial operator is required to employ the necessary quantity of trained management and supervisors to provide for the efficient, safe, and orderly compliance with its lease or agreement.
- Personnel Training and Certification
All commercial operator personnel shall be fully qualified and trained to provide a high quality standard of courteous, efficient, and safe service to the public and customers. Personnel shall meet all Federal, State, and local training and certification requirements applicable to their individual duties and company services.

Fixed Base Operators

This section is where your minimum standards start to define the minimum thresholds for providing commercial aeronautical services. Remember these are to be entry level and somewhat generic. Specifics should be addressed in individual leases.

- **Primary Aeronautical Services**

A Fixed Base Operator (FBO) is an entity engaged in the business of providing the primary service of fueling or self-fueling of aircraft and at least one secondary service. FBOs have the option to also provide any other secondary services including: flight training, airframe and power plant maintenance, aircraft rental, and aircraft storage/hangars

Fuel inventory reporting criteria should be established to insure accurate fuel flowage fee payment.

Will you allow FBOs to sublease services to others?

- Each FBO may subcontract or use third party operators to provide any primary or secondary services. Subcontractors or third party operators shall meet all minimum standards. Each FBO shall conduct its business and activities on and from the leased/assigned premises.

What minimum size building, auto parking and ramp will you require an FBO to lease? Remember that these are thresholds or minimums and that the individual lease should detail the specifics.

- **Leasehold Size**

- Buildings**

- FBOs are required to lease or construct a public use building on the leasehold property. The building must be capable of meeting business demand.

- **Vehicle Parking**

- Each FBO shall provide adequate parking to meet the needs of customers and employees on the leasehold property.

- **Aircraft Parking**

- Each FBO shall provide property for its aircraft operating area (ramp), independent of any building area, vehicle parking area, and fuel storage area. This aircraft operating area shall provide transient aircraft parking and tie-downs for a minimum number of aircraft. This tie-down ramp area shall be adequate to support all the activities of the FBO and any approved subtenants. The ramp shall be well maintained and kept clean.

The needs for FBO services vary from airport to airport and day to day. What minimum hours and days will you require your FBOs to be available? What minimum staff and staff training will your demand?

- **Hours of Operation**
If the FBO provides a self-fueling station, it must be readily accessible to customers, and be illuminated for safe night operations.
- **Staffing**
Each FBO shall provide the airport owner with a current listing of names, addresses, and contact information for all personnel responsible for the operation and management of the FBO for emergency situations. This listing shall be updated with any changes in either staff or their contact information.
- **Personnel Qualifications**
All FBO fuel handling personnel shall be trained in the safe and proper handling, dispensing, and storage of aviation fuels. The FBO shall develop and maintain Standard Operating Procedures (SOP) for refueling and ground handling operations and shall ensure compliance with standards set forth in the Uniform Fire Code and FAA Advisory Circular 00-34A, Aircraft Ground Handling and Servicing. The SOP shall address bonding and fire protection, public protection, control of access to the fuel storage area, and marking and labeling of fuel storage tanks and fuel dispensing equipment, and shall be submitted to the airport owner no later than thirty (30) days prior to the FBO commencing fueling activities.

Additionally, the FBO shall comply with FAA Advisory Circular 150/5230-4, Aircraft Fuel Storage, Handling, and Dispensing on Airports, Airport rules and regulations, and all other applicable laws related to aircraft fuel handling, dispensing and storage.

Each FBO shall obtain all applicable fueling certifications and permits, and receive periodic refresher training as required. The airport owner, the State of Wisconsin and/or the FAA may periodically conduct inspections of the FBO aircraft fueling activities and facilities to ensure compliance with laws, regulations, and minimum standards.

What minimum insurance requirements will you have for each FBO? Will they require that you, the airport owner, be an additional named insured? When you are considering these points you should consult with your risk manager.

- **Insurance Requirements**
Each FBO shall maintain the types and amounts of insurance as specified in its lease or agreement.

What minimums will you develop regarding the primary and secondary FBO services?

Fueling

What kinds and grades of fuel shall the FBO make available for sale and into-plane delivery?

Be sure to state that all equipment used for the storage and/or dispensing of petroleum products must meet all applicable Federal, State, and local safety codes, regulations and standards.

Does the airport have a fuel farm where the FBO must store its fuel? Must the FBO provide above ground or below ground storage?

What minimum capacity for the various fuels shall the FBO have?

Will you require that the FBO have both a stationary and mobile fueling systems?

Will you allow a self-fueling facility to be established?

Be sure to establish guidance regarding the disposal of all waste materials, regulated or unregulated.

What minimum fire extinguisher requirements will you establish? Solicit advice from your risk manager and your fire chief or inspector.

Aircraft Line Services

What kinds of services do the users of your airport need provided to them? Tie downs, aircraft towing, preheat, temporary storage, aircraft parts and supplies, and system servicing other than fuel are just some of the services that may be considered.

Pilot and Passenger Services and Concessions

What types of pilot and passenger support should the FBO provide? Restrooms, waiting rooms, public telephone, access to weather information, food concessions, rental or courtesy cars are all potential inclusions.

Flight Training

A flight training services operator provides aircraft ground and flight instruction necessary to complete the knowledge and practical tests for any category of pilot certificate or rating.

What minimum number and types of aircraft should this operator have?

How many flight and/or ground instructors should the operator employ?

What minimum insurance coverage should this service provider have?

Airframe and Power Plant Maintenance

An Airframe and Power Plant maintenance services operator provides any of the following: major or minor airframe, engine and accessory overhaul repair services on single and multi-engine piston driven propeller aircraft, turbo-propeller aircraft or turbine aircraft.

What size facility shall the operator have? How many auto parking spaces? How large of a ramp must they lease? Restrooms, waiting rooms and public telephones may all be additional considerations.

How many employees shall the operator employ? What certificates shall they hold?

How many hours and days of the week shall the operator provide services?

What insurance coverage, as a minimum, shall this operator have?

On-Demand or Charter Operations

On-demand operator provides air transportation of persons or property to the general public for hire, either on a scheduled or unscheduled basis, or as defined by the FAR Parts 119 and 135.

An on-demand operator shall have and display, a current FAR Part 135 Certificate.

What size facility shall this type of operation have?

How many auto parking spaces shall they have available?

How many employees shall this provider have?

How many aircraft of what type should this operator have available for this type of operation?

Restrooms, passenger lounge, food concessions, public telephone should all be considered for inclusion in this minimum standard.

Minimum insurance requirements also need to be established.

Aircraft Rental

An aircraft leasing or rental services operator provides general aviation aircraft for leasing or rental to the public.

What size facility and minimal amenities should this operator have?

How many employees and how many hours/days should the service be available?

How many aircraft should the operator make available?

Have you considered insurance minimums?

Avionics Maintenance and Sales

An avionics maintenance service operator provides the maintenance, repair, and installation of aircraft avionics, radios, instruments, and accessories. This service includes the sale of new or used aircraft avionics, radios, instruments, and accessories.

Does this service provider hold the appropriate FAA repair station certificate and any required FCC certification?

How large of a facility including hangar or repair shop, auto parking, ramp space will this operator need as a minimum?

Should there be waiting rooms, restrooms, and a public telephone?

What kind and amount of insurance, as a minimum, should this provider hold?

Aircraft Storage and Hangars

An aircraft storage and hangar service operator leases and rents hangars, multiple T-hangars, and/or tie-down space to aircraft owners or operators solely for aircraft storage purposes.

How large of a leasehold should this service provider lease as a minimum?

Have you considered an insurance requirement naming the airport owner as an additional named insured?

What kind of aircraft maintenance, if any, will you allow in the hangars?

What about storage of non-aeronautical items or fluids, chemicals and other materials used by aircraft owners?

Specialized Aviation Service Operations

The FAA's new minimum standards guidance material introduces a new type of commercial aeronautical operator – Specialized Aviation Service Operations (SASO). This classification of service provider may provide one or more aeronautical services but does not provide fuel servicing.

“An airport should not, without adequate justification, require that an operator desiring to provide a single service also meet the criteria for a full-service FBO.” (AC 150/5190-5, paragraph 2-2f)

You should develop minimum standards for each type of SASO to define how they may operate on your airport. The criteria presented in the previous section provide a starting point for SASO minimum standards. Some SASO were not covered in the previous section and so their discussion points will be provided here.

Aircraft Sales

The previously discussed minimums of facility size and amenities should be addressed, as should employee certification and hours/days of operation.

Aircraft Restoration, Painting, and Refurbishing

The standards developed for this SASO should resemble those of Airframe and Power Plant Maintenance. Since this type of operation is typically smaller in scope and somewhat specialized smaller facilities and fewer amenities may be reasonable.

Specialized Flying Services

Businesses providing specialized commercial flying services such as non-stop sightseeing tours, aerial photography or surveying, power line or

pipeline patrol, firefighting or fire patrol, air ambulance, airborne mineral exploration, banner towing, and other air transportation operations specifically excluded from FAR Part 135 are included in this SASO.

Minimums should be established for number of employees, pilot certification, aircraft number and type along with facility details. Insurance minimums need to be detailed as well.

Commercial Skydiving

A business that engages in the transportation of persons for skydiving, instruction in skydiving, and rental and sales of skydiving equipment make up this SASO.

Minimums addressing facility size, auto parking, ramp area and hours of operation should be developed. Number of aircraft, pilots and their certificates should also have minimums established.

The SASO shall meet or exceed the Basic Safety Requirements (BSR) of the United States Parachute Association (USPA), FAR Part 105, and related FAA Advisory Circulars.

Be sure to review FAA Order 5190.6A, paragraph 4-8b where parachute jumping is discussed from an airport compliance perspective. Insurance recommendations are also made in that reference.

Aerial Applicators

Minimum standards for aerial agricultural spraying or seeding SASO's should address hangar, auto parking and ramp area. Customer amenities are of minor importance considering the type of business. Number of aircraft and employees are also minor points.

Considerable thought must be given to potential environmental impacts and their prevention. Standards should address aircraft ramp design. A centrally drained and paved emergency spill prevention ramp of not less than ten thousand (10,000) square feet for aircraft loading and servicing is recommended. The standards should also require that this area meet all current requirements of State and Federal agencies.

The SASO should:

- Comply with all applicable rules and regulations governing pesticides and other chemicals used by the operator.

- Employ certain safeguards and safe operating practices to prevent spillage, including:

- a. Clean up and remove all containers at the end of each day's activities
- b. Maintain all loading and mixing facilities in good condition
- c. Use dry break devices or equivalent couplings to the aircraft-loading receptacle to prevent leaks of all materials
- d. Aircraft and loading equipment will be positioned in such a manner as to not interfere with normal aircraft operations at the airport
- e. In the event of a small pesticide or pesticide solution spill, the contaminated surface material will be removed from the premises and the area of the spill will be treated with SuperBugs or an equivalent. In the event of a reportable amount of spilled pesticide, the operator will contain the material and contact those agencies that DNR regulations require.

Keep an appropriate spill kit on site in a known and easily accessible location.

All chemicals stored on airport must be stored in accordance with the Material Safety Data Sheet (MSDS) requirements for that chemical. MSDS sheets for chemicals stored on airport shall be made available to (airport owner) upon request.

Commercial Self-Fueling

Self-fueling is the fueling of an aircraft by the aircraft owner, their employees or the pilot using pumps and equipment installed for that purpose. The fueling facility may or may not be attended by the FBO that owns and operates the equipment. This operation should not be confused with self-service.

Only FBOs can sell and provide for the into aircraft delivery of fuel. The minimum standards that you develop for this operation must be the same as other FBOs. Airport owners do not need to approve commercial self-fueling and should consider whether this form of fueling will meet the needs of the airport users.

Considerations to safety of the operation should be a priority. Standards for emergency shutoffs, lights, grounding equipment and support equipment including ladders and chocks all need to be developed.

Fuel sales using this method need some form of inventory control and reporting for fuel flowage fee determination.

Flying Clubs

Flying clubs are non-profit entities organized for the purpose of providing its members with any number of aircraft for their personal use and enjoyment. Aircraft must be vested in the name of the club or owners on a pro-rata share, and the club may not derive greater revenue from the use of the aircraft than the

cost to operate, maintain, replace or enhance the aircraft or fleet of aircraft. A flying club qualifies as an individual under the FAA grant assurances.

The airport owner has the right to require a flying club to furnish documents such as insurance policies, club by-laws, meeting minutes and notifications, and a current list of members to ensure that the club remains a noncommercial and nonprofit organization.

Because flying clubs are not commercial aeronautical activities, their regulation is not governed through minimum standards, but rather through the Airport Rules and Regulations.

Airport Security

Airport owners are encouraged to develop security policies and procedures. The inclusion of airport security in the minimum standards document and airport rules and regulations makes airport security everyone's responsibility – tenants, users and airport owner alike.

Through the Fence Operations

A "Through-the-Fence" (TTF) agreement authorizes a person or operator to access the airport from adjacent privately owned property. The FAA recommends, in FAA Order 5190.6A, *Airport Compliance Handbook*, paragraph 6-6d, that airport owners refrain from entering into this type of agreement. The BOA position on TTF operations is to support the FAA recommendation against this type of operation.

We highly recommend that every airport establish a position on TTF Operations regardless of the current situation. Secondly, we recommend that if your airport has existing TTF Operations that an agreement between the airport and the entity that accesses the airport be developed. The term of the access agreement should not exceed 5 years. If term extensions are solicited the access fee should be adjusted to meet the current CPI or other agreed upon price index.

Heightened security awareness and new security obligations through the Transportation Security Administration (TSA) have made TTF considerably more complicated. A TTF proponent must be willing to accept an increased risk of the agreement being terminated due to security issues. Prior to issuing an airport improvement grant all TTF access must be documented and acknowledged by the FAA and the State.

Enforcement

The minimum standards are susceptible to challenge if not applied and then enforced properly and uniformly. Any commercial business operator who is making an investment at your airport deserves the continuity of fair and uniform enforcement.

References

1. Advisory Circular AC150/5190-5, Change 1
<http://www2.faa.gov/arp/Acs/5190-5A1.pdf>
2. Chapter 114, Aeronautics, Wisconsin State Statutes
<http://www.legis.state.wi.us/statutes/Stat0114.pdf>
3. Conditions of State Aid for Airport Improvement, Chapter Trans 55
<http://www.dot.wisconsin.gov/localgov/docs/airport-trans55.pdf>
4. Federal Aviation Administration Airport Sponsor Grant Assurances
<http://www2.faa.gov/arp/pdf/assrnap.pdf>
5. FAA Airport Grant Assurance Compliance Certification
www1.faa.gov/arp/anm/services/compliance/index.cfm?nav=compliance
then click on Compliance Certification Form
6. Notice to all State Aviation Officials, Aviation State Block Grant Program
<http://www1.faa.gov/arp/aplct.htm>
7. FAA Order 5190.6A Airport Compliance Requirements
<http://www1.faa.gov/arp/publications/orders/5190-6a.pdf>
8. Guidance to Prevent Exclusive Rights and Establish Commercial Business Standards at Your Airport
<http://www.awp.faa.gov/ops/awp600/airtopics/txt/may00.txt>
9. Policy Regarding Airport Rates and Charges, Policy Statement, Docket No. 27782
<http://www1.faa.gov/arp/pdf/rates1.pdf>
10. Guidance for Leases, Use Agreements and Land Releases, Policy and Procedures Memo, Great Lakes Region, Federal Aviation Administration
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